

CALIFORNIA COASTAL COMMISSION

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September 14, 1999

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
Sarah Christie, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR SEPTEMBER 1999 SUPPLEMENTAL

CONTENTS:

This report provides summaries and the status of bills that affect the Coastal Commission and California's Coastal Program.

Note:

This information can be accessed through the Commission's World Wide Web
Homepage at **<http://ceres.ca.gov/coastalcomm/index.html>**

Please contact Sarah Christie, Legislative Coordinator, at (916) 445-6067 with any questions on the material contained in this report.

PRIORITY LEGISLATION

AB 18 (Keeley) Villaraigosa-Keeley Urban Parks, Clean Water, and Coastal Protection Bond Act of 2000

AB 18 would authorize the issuance of bonds in the amount of \$2,100,000,000 for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources. The Coastal Conservancy would be provided \$220,400,000 for the acquisition, preservation, restoration, and enhancement of real property or an interest in real property in coastal areas and watersheds within its jurisdiction and the development of public use facilities, as specified. This bill would require the Secretary of State to submit the bond act to the voters at the March 7, 2000 statewide general election.

Introduced	12/07/98
Last Amend	09/03/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	None
Comm. Position	SUPPORT

AB 64 (Ducheny) Public Beach Restoration Act

AB 64 would establish the California Public Beach Restoration Program, to be administered by the Department of Boating and Waterways, for specified public beach enhancement, restoration, and nourishment purposes. The bill would require the Department and the State Coastal Conservancy to jointly prepare and submit to the Legislature, not later than January 1, 2002, a report detailing the restoration, nourishment, and enhancement activities undertaken through the program, evaluating the need for public beach restoration projects, the effectiveness of the program in addressing that need, and ways to increase natural sediment.

Introduced	12/07/98
Last Amend	07/02/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	None
Comm. Position	SUPPORT

AB 75 (Strom-Martin) State Agency Recycling

AB 75 would require each state agency on or before July 1, 2001, to develop, in consultation with the California Integrated Waste Management Board, an integrated waste management plan. It would also require each state agency and each large state facility to divert at least 25% of their solid waste generated from landfill or transformation facilities by January 1, 2002, and at least 50% by January 1, 2004.

Introduced	12/07/98
Last Amend	09/07/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	None

AB 399 (Wayne) Coastal Development Permits: Finding

AB 399 would require that every coastal development permit issued for any development within the coastal zone include findings pertaining to public access and public recreation policies.

Introduced	02/12/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	Working with author to draft legislation and amendments
Comm. Position	SUPPORT

AB 492 (Wayne) Coastal Resources: Public Access

AB 492 would prohibit state land that is located between the first public road and the sea , or that the commission has formally designated as part of the California Coastal Trail, from being transferred or sold to any private entity, unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. The prohibition would not apply if the private entity is a nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment, or if the Department of Parks and Recreation or the Coastal Conservancy makes specified findings at a noticed public hearing relating to the transfer or sale of the property.

Introduced	02/18/99
Last Amend	09/16/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Worked with author to draft amendments
Comm. Position	SUPPORT

AB 511 (Wayne) Nonpoint Source Pollution

AB 511 clarifies the Commission's existing authority to address and minimize the adverse impacts of nonpoint source pollution when implementing Coastal Act policies related to coastal public access and recreation, the protection of biological productivity, coastal waters, and sensitive habitat, and new development. The Commission would also be required, not later than January 1, 2001, to prepare and submit to the Governor and the Legislature an annual report on the progress made in implementing the *Polluted Runoff Strategy of the California Coastal Commission*.

Introduced	02/18/99
Last Amend	06/01/99
Status	This is a two-year bill.
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

AB 538 (Wayne) Public Beaches: Bacteriological Standards

AB 538 would require the State Water Resources Control Board, on or before September 30, 2000, in conjunction with the State Department of Health Services and a panel of experts established by the state board, to develop source investigation protocols for use in conducting source investigations of storm drains that produce exceedences of specified bacteriological standards. The bill also would require the state board, on or before March 31, 2001, in conjunction with the State Department of Health Services, to report to the Legislature on the methods by which it intends to conduct sources investigations of storm drains that produce exceedences of bacteriological standards established.

Introduced	02/18/99
Last Amend	09/02/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	None

AB 604 (Jackson) Nonpoint Source Pollution

AB 604 would require the State Water Resources Control Board, on or before January 1, 2002, in consultation with the Commission, the State Department of Health Services, and any other state agencies with authority over nonpoint source pollution, to establish a program strategy and implementation plan and performance goals for targeted management measures, and for the remaining management measures, on or before January 1, 2005.

Introduced	02/19/99
Last Amend	09/02/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	None
Comm. Position	SUPPORT

AB 642 (Lempert) Coastal Resources: Wetlands Mitigation and Restoration

AB 642 would establish the California Coastal Wetlands Mitigation Banking and Restoration Act of 2000, which would require the Department of Fish and Game, in cooperation with other responsible federal, state, and local agencies, to adopt regulations that establish standards and criteria for a mitigation bank site qualification process in the coastal zone, the evaluation of wetlands acreage and habitat values created at bank sites, and the operation of bank sites. The bill would permit any person who desires to establish a bank site to apply to the department, and to any other appropriate state department that requires a permit, for a determination that the proposed bank site and the proposed operator qualify under the standards and criteria established by the department. Most importantly, the bill finds that no net loss of wetlands acreage, wetlands functions, or recreational uses should occur in the coastal zone and it is the goal of this state to increase the total wetlands acreage and wetlands functions within the coastal zone.

Introduced	02/23/99
Last Amend	07/06/99
Status	This is a two-year bill.
Staff Involvement	Reviewing bill, working with author on technical amendments

AB 703 (Lempert) Ballast Water Discharges

AB 703, with certain exceptions, would require the master, operator, or person in charge of a vessel to employ prescribed ballast water management practices for ballast water carried into the waters of the state from areas outside the "exclusive economic zone," as defined. The bill would require those persons to take certain actions to minimize the uptake and release of nonindigenous species. The bill would require the master, owner, operator, agent, or person in charge of a vessel carrying ballast water into waters of the state after operating outside the exclusive economic zone to provide the State Lands Commission, and maintain on board the vessel, specified information. The bill would require the State Lands Commission to take samples of ballast water and sediment and to take other action to assess the compliance of any vessel with prescribed requirements.

Introduced	02/24/99
Last Amend	09/02/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	None

AB 809 (Strom-Martin) Special Environmental Design License Plates: Fund

AB 809 would require one-half of the fees that are currently deposited in the California Environmental License Plate Fund to instead be deposited in the License Plate Coastal Access Account, which the bill would create, in the State Coastal Conservancy Fund of 1984. The bill would require the money in this new account to be available, upon appropriation, to the State Coastal Conservancy for grants to public agencies and nonprofit entities or organizations for specified purposes.

Introduced	02/24/99
Last Amend	05/28/99
Status	This is a two-year bill.
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

AB 848 (Kuehl) Coastal Development Permits: Temporary, Nonrecurring Movie and Television Sets

AB 848 would authorize the governing body of a local government with a certified local coastal program to elect to delegate the commission as the appropriate authority to process and issue a coastal development permit for a temporary, nonrecurring location set for a motion picture, television, or commercial production project in the coastal zone. The bill would authorize the governing body of a local government to designate the commission as the processing and permitting authority on a project-by-project basis and to designate the local coastal administrator or other designee as the decision-making authority to decide projects that will be transmitted to the commission for processing and permitting.

Introduced	02/24/99
Last Amend	09/08/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Worked with the author on amendments

AB 885 (Jackson) Coastal Onsite Sewage Treatment Systems

AB 885 would require the State Department of Health Services, on or before January 1, 2001, in consultation with the State Water Resources Control Board, the California Coastal Commission, and the California Conference of Directors of Environmental Health, to adopt, by regulation, statewide performance standards for all onsite sewage treatment systems within the coastal zone. The bill would require all affected onsite sewage treatment systems to comply with the standards no later than January 1, 2003, or 3 years from the date of the adoption of the standards, whichever is earlier.

Introduced	02/25/99
Last Amend	05/13/99
Status	This is a two-year bill.
Staff Involvement	None
Comm. Position	SUPPORT

AB 989 (Lowenthal) Coastal Development: Notice of Violation

AB 989 would permit the executive director of the commission to file notice of a violation of the Coastal Act if the executive director has determined that real property has been developed in violation of the act. The bill would require a public hearing to be held if the owner submits a timely objection to the filing of the notice of violation, and would require the issuance of a clearance letter if the Commission finds that no violation has occurred. If the Commission determines that a violation has occurred, the bill would require the recordation of the notice of violation with the county recorder in which the real property is located. AB 989 would require the executive director, within 30 days after the final resolution of a violation, to record a notice of recission with the county recorder indicating that the notice of violation is no longer valid.

Introduced	02/25/99
Last Amend	04/12/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

AB 1000 (House) Eminent Domain: Regulation

AB 1000 would specify that any official act, decision, or regulation of a public entity which restricts the use or impairs the value of private property constitutes an exercise of the power of eminent domain, and shall only be given effect upon the payment to the owner of the private property of just compensation.

Introduced	02/25/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	None

AB 1128 (Ackerman) Private Property: Taking

AB 1128 would provide that for the purpose of any law, including any constitutional provision, that requires just compensation for the taking of any private property, that requirement shall apply upon the making of a final decision affecting private property rights. The bill would provide that a final decision, for that purpose, occurs upon the last date that an agency may make or review any agency action prior to the bringing of any action or proceeding in any court to challenge the validity of the agency action. Further, the bill states that upon the existence of any final decision, any person who claims that an agency action entitles the person to just compensation for affected property rights may exercise any administrative or judicial right or remedy to obtain that compensation, separately from any claim relative to the validity of the agency action, and the agency or court shall process the claim for just compensation without regard to the validity of the agency action.

Introduced	02/25/99
Last Amend	None
Status	This is two-year bill.
Staff Involvement	None

AB 1280 (Jackson) Oil and Gas Development: Pipelines

AB 1280 would require that, where new and expanded oil and gas development is permitted by the Commission, all oil produced offshore be transported to onshore processing facilities by pipeline only, and that all pipelines used to transport this oil utilize the best achievable technology to ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystems. However, for new or expanded oil extraction operations where the crude oil is so highly viscous that pipelining is found to be an infeasible mode of transportation, or there is no feasible access to pipeline, the bill would permit shipment of crude oil over land by other modes of transportation such as trains and trucks that meet all applicable rules and regulations, excluding any waterborne mode of transport. This bill would further require that, in addition to all other measures that will maximize the protection of marine habitat and environmental quality, when an offshore well is abandoned or permanently shut down, the best achievable technology be used to seal and cap a well to prevent any further failure or leakage of oil from the well into the marine environment.

Introduced	02/26/99
Last Amend	09/03/99
Status	Failed Assembly concurrence; reconsideration granted
Staff Involvement	Worked with the author on amendments.
Comm. Position	SUPPORT

AB 1293 (Mazzoni) Coastal Protection: Public Education Programs

AB 1293 would require that the Commission's public education program also include outreach to special groups such as the boating community, and incorporate information on the prevention and reduction of nonpoint source pollution and include information concerning pollution from the operation of marine engines and the consequent impact on water quality, marine life, and other coastal and ocean resources. The bill would provide that, because the actions of people throughout a watershed impact the coast and the ocean, the geographic extent of the commission's education and outreach program shall not be limited to outreach conducted only in the coastal zone. The bill would require public education and outreach programs that the Commission initiates that are focused on nonpoint source pollution to be coordinated with the State Water Resources Control Board and with the appropriate California Regional Water Quality Control Board. This bill would also authorize the Department of Boating and Waterways to establish a program to provide environmental education to the boating public, with the objective of preventing and reducing boating-related pollution.

Introduced	2/26/99
Last Amend	08/26/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

SJR 2 (Alpert) Offshore Oil Leases

This measure would request that President Clinton extend the moratorium on federal offshore leases to certain leases awarded prior to the moratorium or to terminate those leases.

Introduced	01/07/99
Last Amend	07/12/99
Status	Chaptered by Secretary of State. Res. Chapter 86, Statutes of 1999.
Staff Involvement	None

SB 2 (Chesbro) Watershed, Wildlife, and Parks Improvement Bond Act of 2000

SB 2 would authorize the issuance of bonds in the amount of \$854,500,000 for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources.

Introduced	12/07/98
Last Amend	03/22/99
Status	This is a two-year bill.
Staff Involvement	None

SB 48 (Sher) Public Records: Disclosure

SB 48 would allow any person who has been denied access by a state or local government to a public record to appeal that denial to the Attorney General within 20 days of the date of denial and in cases where the agency fails to provide any response. The bill would recommend the Attorney General issue a decision on the appeal within 20 days of the date of the request. If the Attorney General finds that an agency's decision to refuse disclosure was not justified under the California Public Records Act, this bill requires the Superior Court to impose a fine on the agency of not less than \$100 for each day that the agency's action resulted in the denial of the right to copy or inspect the record in question, not to exceed a total of \$10,000, if the court finds that in declining to comply with a request to inspect or copy a record under the act, the agency acted in bad faith or with knowledge that the request sought nonexempt records. This bill would authorize a complaining party to seek his or her judicial remedy under the act without first exhausting the administrative remedy provided under this bill.

Introduced	12/07/98
Last Amend	09/03/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Working with the author

SB 57 (Hayden) Coastal, Recreational, and Natural Resources Bond Act of 2000

SB 57 would authorize the issuance of bonds in the amount of \$2,210,000,000 for the purpose of financing a program for the maintenance, expansion, development, or rehabilitation of parks and wildlife, for the protection, restoration, or enhancement of natural resource sites, or for science and environmental education centers, museums, and other facilities. The bill would require the Secretary of State to submit the bond act to the voters at the November 7, 2000, statewide general election. The state Coastal Conservancy would be provided \$200 million for various coastal programs and grants.

Introduced	12/07/98
Last Amend	08/23/99
Status	This is a two-year bill.
Staff Involvement	None
Comm. Position	Support

SB 74 (Murray, Sher) Parks, Coastal, Recreational, and Natural Resources Bond Act of 2000

SB 74 would establish the Murray-Hayden Urban Parks, Environmental Cleanup, and Youth Service Act, which would provide funding for various projects and programs to develop parks, recreation, and youth service centers, and establish youth service projects. The bill would require all state agencies to cooperate in carrying out the provisions of the act by providing advice and assistance to those departments that have primary responsibility for implementing a program or project under the act.

Introduced	12/07/98
Last Amend	04/15/99
Status	This is a two-year bill.
Staff Involvement	None

SB 110 (Peace) Energy Conservation, Power Facility and Site Certification, Notice of Intention

SB 110 would eliminate the requirement that electric utilities' 5- and 12-year forecasts established by the Energy Commission serve as the basis for the planning and certification of electric transmission and thermal power plant facilities. This bill would also require a report with recommendations and a workplan to be submitted on or before March 31, 2000, concerning data collection in the restructured electricity market. The bill also would require the commission to file a report every 2 years commencing July 1, 2001, concerning the environmental performance of the electric generation facilities, as prescribed. Various changes with respect to the information required in an Application for Certification and in the commission's written decision concerning the application are made by this bill.

Introduced	12/15/98
Last Amend	08/26/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Working with the author on amendments

SB 153 (Haynes) Property Owner Rights Act of 1999

SB 153 would require public agencies to minimize the number of agency actions that may significantly impair the use of private property. Under this bill, every public agency is required to conduct a private property taking impact analysis prior to taking any agency action that may significantly impair the use of private property. Furthermore, this bill would require an exaction or mitigation measure, imposed by a public agency as a condition to a discretionary act, to have a direct relationship to the public burdens imposed by, and to be roughly proportional in nature and extent to the impact of, the proposed activity.

Introduced	01/07/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	None
Comm. Position	OPPOSE

SB 221 (Alpert) Oil Spill Prevention

Existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, prohibits the operation of a nontank vessel of 300 gross registered tons or greater in the marine waters of the state unless the owner or operator prepares and submits an oil spill contingency plan to the administrator for oil spill response and the plan is approved. SB 221 would authorize the administrator to establish a lower standard of financial responsibility for nontank barges that is not less than the expected costs from a reasonable worst-case oil spill into marine waters.

Introduced	01/25/99
Last Amend	07/08/99
Status	This is a two-year bill.
Staff Involvement	None

SB 227 (Alpert) Water Quality: Nonpoint Source Pollution

SB 227 would require the state board, on or before February 1, 2001 and in consultation with the regional boards, to prepare a detailed program for the purposes of implementing the state's nonpoint source management plan pursuant to Sections 303 and 319 of the Clean Water Act, Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990. In connection with its duties to prepare and implement the state's nonpoint source management plan, the State Board shall develop, on or before February 1, 2001, guidance to be used by the State Board and the Regional Boards for the purpose of describing the process by which the boards will enforce the state's nonpoint source management plan. The state board would be required, commencing on or before August 1 of each year, and in consultation with the Commission, to prepare and submit copies of prescribed state and regional board reports that contain information related to nonpoint source pollution and that the state or regional boards were required to prepare in the previous fiscal year.

Introduced	01/25/99
Last Amend	09/02/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Worked with author to draft legislation
Comm. Position	SUPPORT

SB 241 (Alpert) California Endowment for Marine Preservation

SB 241 would establish the California Endowment for Marine Preservation, to be governed by a board of directors, in order to create a permanent source of funding for projects that will enhance the quality, use, and enjoyment of the open coastal marine resources of the state. The bill would also require each owner and operator of certain offshore oil platforms or production facilities, who receives government permits that allow the platform or facility to remain in place, to deposit an unspecified amount with the endowment.

Introduced	01/26/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	Working with author

SB 243 (McPherson) Recreational Property: Development Fees

SB 243 would require the State Board of Control to allow a claim for reasonable attorney's fees incurred by an owner of any interest in real property or a public entity as a defendant in a civil action seeking to restrict or prevent public access through the property if the owner or public entity gives permission to the public to enter the property pursuant to a specified agreement. The bill would limit the total sum of the claim for attorney's fees to \$200,000 per fiscal year.

Introduced	01/26/99
Last Amend	09/07/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	Worked with author on amendments
Comm. Position	SUPPORT

SB 300 (Poochigian) Governmental Liability: Permits

SB 300 would provide that a state agency is liable to a private property owner for a temporary taking of the owner's real property if the agency is responsible for a delay in the issuance of a development permit affecting the use of the real property, and the delay is the result of a final decision of the agency that is later determined by a court to be legally erroneous. The bill would also provide that a delay that occurs as a result of the normal development approval process or as a result of litigation challenging a final decision by a state agency constitutes a temporary taking under those provisions if the final decision of the state agency is later determined by a court to be legally erroneous.

This bill would also declare that it is intended to supersede the holding of the California Supreme Court in *Landgate, Inc. v. California Coastal Com.*, 17 Cal. 4th 1006, with regard to any claim arising on or after its effective date.

Introduced	02/03/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	Testified in Committee
Comm. Position	OPPOSE

SB 551 (McPherson) Local Agencies: Building and Zoning Ordinances

SB 551 would add building and zoning ordinances incorporated in any local coastal plan to those ordinances that do not apply under existing law to the location or construction of facilities for the production, generation, storage, or transmission of water, wastewater, or electrical energy or to electrical substations in an electrical transmission system which receives electricity at less than 100,000 volts.

Introduced	02/19/99
Last Amend	None
Status	Author dropped bill.
Staff Involvement	None

SB 1065 (Bowen) Public Records: Electronic Format

SB 1065 would require any agency that has information that constitutes an identifiable public record in an electronic format to make that information available in an electronic format, when requested by any person. The bill would require the agency to make the information available in any electronic format in which it holds the information.

Introduced	02/26/99
Last Amend	04/27/99
Status	Passed Legislature; enrolled and to Governor
Staff Involvement	None

SB 1244 (O'Connell) Coastal Resources: Oil and Gas Development

The California Coastal Act of 1976, requires that oil and gas development be permitted in accordance with specified requirements if specified conditions are met. SB 1244 would authorize oil and gas development to be permitted in accordance with specified requirements if the applicant for a permit for that development can demonstrate that the development can be performed safely and is consistent with the geologic conditions of the well site.

Introduced	02/26/99
Last Amend	None
Status	This is a two-year bill.
Staff Involvement	None